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April 18, 2024

Via ECF

The Honorable Sidney H. Stein
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Menendez, et al.*, 23 Cr. 490 (SHS)

Dear Judge Stein,

On behalf of all defendants, Fred Daibes, with the consent of the government, moves for a one-week adjournment of trial from May 6, 2024, to May 13, 2024. This modest adjournment would conform the current schedule to the delay caused by the parties' good faith negotiations to reach a stipulation that avoided litigation over the potential disqualification of counsel to Mr. Hana. The adjournment will help ensure that the defense has sufficient time to review the anticipated voluminous exhibits and material to be produced by the government pursuant to 18 U.S.C. § 3500.

As the Court is aware, for the past two weeks the parties were engaged in lengthy good faith negotiations to come to an agreement on the contents of the Lustberg stipulation, which was signed by all counsel today. During the course of those negotiations the government twice sought, and was granted, a suspension of the date (4/15/2024) by which it was to produce to the defense all § 3500 material, witness list, and exhibits. *See* ECF No. 247; *see also* April 17, 2024 Transcript at 42. The parties reached a stipulation and, thus, we understand that following tomorrow's conference, the government has agreed to disclose these materials by the end of the day if all trial defendants confirm their waiver of the right to call Mr. Lustberg at trial. However, to make up for the time lost, the government has agreed to consent to a one-week adjournment of the trial to permit the defense additional time to review its disclosures.

Furthermore, the parties have conferred and agree on the following additional deadlines: (1) any defense expert notices to be served by April 19, 2024; (2) proposed requests to charge to be provided to the Court by April 24, 2024, as previously set by the Court; (3) Defendants' non-impeachment exhibits intended for use in the government's case in chief to be disclosed to the

government by April 26, 2024; and (4) additional defense disclosures (specifically, witness list, Rule 26.2 disclosures, and defense exhibits to be used in the defense case) to be produced to the government 10 days before the anticipated start of the Defendants' case, even if the defense has not firmly decided whether to put on a case. Additionally, the parties are working, in good faith, to reach an agreement on other deadlines, *e.g.*, motions to preclude or for a *Daubert* hearing of any expert, if necessary, and the disclosure of visuals or exhibits to be utilized in opening statement. We believe these outstanding issues will be resolved without the need for Court's involvement.

Accordingly, we respectfully request that the Court adjourn the trial one week until May 13, 2024.

Respectfully submitted,

/s/

César de Castro
Shannon McManus
Valerie Gotlib
Seth Agata

Counsel for Fred Daibes

cc: All Counsel (*via* ECF)